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April 25, 1990

Mr. William C. Rapp
Administrator
Multnomah County Charter
Review Committee
c/o City of Portland
1120 S.W. Fifth Avenue
Portland, OR 97204

Dear Bill:

In your letter dated April 5, 1990 you indicate that the Committee is considering a proposal to move the Community Corrections Division from Justice Services to the Office of the Sheriff. You have asked us the following question:

QUESTION

May the Community Corrections Division be moved from the Department of Justice Services to the office of the Sheriff?

ANSWER

We conclude that it would be legal for the County to designate the Sheriff as Community Corrections Manager, and to provide that the Sheriff will administer what is now the Community Corrections Division. We note, however, that the Oregon statutes creating the community corrections program specifically require involvement of the Board of County Commissioners in some aspects of the community corrections program. It is unclear whether it would be legal to transfer to the Sheriff those functions which are specifically assigned to the Board, and an attempt to do so could jeopardize funding of the County's community corrections program.

DISCUSSION

1. The Powers and Duties of County Officers May Be Determined By Charter.

Article VI, Section 10, Oregon Constitution, hereinafter referred to as the home rule amendment, was adopted as an amendment to the Constitution at the 1958 general election, and states, in part, that:

Mr. William C. Rapp
April 25, 1990
Page 2

"A county charter may provide for the exercise by the county of authority over matters of county concern . . . A county charter shall prescribe the organization of the county government and shall provide directly, or by its authority, for the number, election or appointment, qualifications, tenure, compensation, powers and duties of such officers as the county deems necessary. Such officers shall among them exercise all the powers and perform all the duties, as distributed by the county charter, or by its authority, now or hereafter, by the Constitution or laws of this state, granted to or imposed upon any county officer."

The home rule amendment has, of course, been subject to numerous Attorney General opinions and appellate court decisions. Under those opinions and decisions, the organization of county government is, almost invariably, considered to be a matter of county concern and therefore controlled by the county charter.

2. The Community Corrections Statutes and the Role of the Board.

ORS 423.500 through 423.560 (the "Act") is captioned "Community Corrections" and provides, in essence, an offer by the State of Oregon to Oregon counties to fund certain programs relating to community corrections. Counties may apply for state funding upon submission of a plan to the Department of Correction (the "Department") which designates a community corrections manager for the county, who would administer the county plan. (ORS 423.525). The board of county commissioners designates a local advisory committee (ORS 423.560), gives notice to the State of the need for funds and consults with the Department (ORS 423.535) and gives notice of termination of any program (ORS 423.545).

The Act does not, however, impose duties upon a county. Rather, the Act makes an offer of funding to those counties which comply with the terms of its offer. The Act does not define county and is not consistent in its use of the terms "county" and "board of county commissioners." The Act, however, specifically requires the board of county commissioners to apply for moneys, to consult with the Department, to terminate participation, and to appoint the local advisory committee.

Although we find no law directly on point, it appears to us that the State, through the Act, offers funds to a county if the county accepts and performs pursuant to the terms of the

Mr. William C. Rapp
April 25, 1990
Page 3

Act. We do not believe that a county may unilaterally change the terms of the State's offer as contained in the Act without the consent of the State.

We therefore conclude that the Charter could be amended to designate the Sheriff as community corrections manager under the Act, but that the Board would need to perform those functions which are specifically assigned to the Board by the Act.

Failure to involve the Board in the manner contemplated by the Act could be grounds for the State refusing to grant funds to the County, on the grounds that the County failed to comply with the State's offer, as contained in the Act.

An argument could be advanced under the home rule amendment that the Board could delegate its responsibilities under the Act to the Sheriff, regardless of the terms of the Act. It is unclear whether such an argument would be persuasive to a court, and it would appear undesirable to engage in litigation over such an issue, because the litigation could be costly, and community corrections funds could be interrupted while the litigation was pending, even if the litigation was successful.

If the Charter Review Committee believes, as a matter of policy, that all community corrections functions should be transferred to the Sheriff, and the Board should cease to have any involvement in the community corrections program, then we suggest that an inquiry be made to the Oregon Attorney General about the effect such a transfer would have on the right of the County to receive community corrections funds. We note that the opinion of the Oregon Attorney General is not binding on any court; however, State agencies, such as the Department of Corrections, ordinarily will follow the advice of the Attorney General in the absence of litigation. If the opinion of the Attorney General were that such a transfer would not be grounds for terminating community corrections funds to the County, then it would be likely (but not certain) that the Department of Corrections would not terminate the County's funds if such a transfer were made.

MISCELLANEOUS

We note that the community corrections plan would need to be amended if the Sheriff were designated as community corrections manager, as well as any other agreements that may exist for the community corrections program.

LINDSAY, HART, NEIL & WEIGLER

Mr. William C. Rapp
April 25, 1990
Page 4

We also note the existence of a school of thought which suggests that changes of this sort, which deal with what may be a temporary program, are more properly the subject of ordinances, or other documents less permanent than the Charter. The suggestions of this school are frequently ignored, to the benefit of all, when important goals can be so achieved.

We would be pleased to discuss our comments further.

Very truly yours,

LINDSAY, HART, NEIL & WEIGLER



Richard D. Roberts

RDR/mts

AGREEMENT TO PROVIDE LEGAL SERVICES

The law firm of Lindsay, Hart, Neil & Weigler, Portland, Oregon, hereby agrees to provide, and the Multnomah County Charter Review Committee (the "Committee") hereby agrees to employ the law firm of Lindsay, Hart, Neil & Weigler to provide legal services described below for the fees indicated below.

Lindsay, Hart, Neil & Weigler agrees to attend such meetings, provide such legal advice and opinions, draft proposed ballot titles and perform such related duties as requested by the Committee Administrator.

The Committee shall pay to Lindsay, Hart, Neil & Weigler, its actual out-of-pocket expenses incurred in connection with the services to be performed under this Agreement, and the following fees:

1. \$50 per hour, with a total fee not to exceed \$3,000.

Monthly itemized statements shall be submitted to the Committee Administrator.

DATED this 8 day of November, 1989.

APPROVED AND AGREED TO:

MULTNOMAH COUNTY CHARTER
REVIEW COMMITTEE

By: Ann Porter
Authorized Officer

APPROVED AND AGREED TO:

LINDSAY, HART, NEIL & WEIGLER

By: Richard D. Roberts
Richard D. Roberts



MULTNOMAH COUNTY OREGON

MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

1120 S.W. Fifth Avenue
Suite 1500
Portland, Oregon 97204
(503) 248-3525

MEMBERS

Ann Porter, *Chair*
Mark Johnson, *Vice-Chair*
Florence Bancroft
Lana Butterfield
David J. Chambers
Liberty Lane
Monica Little
Bruce McCain
Paul Norr
Marcia Pry
Casey Short
Nicholas Teeny
LaVelle Vandenberg

STAFF

William C. Rapp
Administrator
Shirley Winter
Secretary

April 5, 1990

Richard Roberts
Lindsay, Hart et al.
Suite 1800
222 S.W. Columbia
Portland, Oregon 97201

Dear Dick:

As I mentioned to you today, a question has arisen regarding the role of the sheriff and his responsibilities.

A proposal has been made to the Charter Review Committee to move Community Corrections, now within the Department of Justice Services, to the Office of the Sheriff. It has also been suggested, by Harley Leiber, former director of the Community Corrections Division, that to do so would violate the provisions of the Community Corrections Act, ORS 423.500 et seq. It is Leiber's contention that the Board of County Commissioners is vested with the control of that program (a copy of Leiber's testimony from the March 21, 1990 meeting of the Charter Review Committee is attached).

Therefore, would you please research the question of whether it is possible to move Community Corrections to the Sheriff's Office without violating state law. County Counsel has also been requested to research this question independently.

It would be helpful if you could present your written opinion to me in advance of the committee meeting on April 18th. If you have any questions or need additional information, please call me.

Sincerely,


William C. Rapp
Administrator



GLADYS McCOY, Multnomah County Chair

Room 134, County Courthouse
1021 S.W. Fourth Avenue
Portland, Oregon 97204
(503) 248-3308

M E M O R A N D U M

TO: Larry Kressel
County Counsel

FROM: Gladys McCoy *G. McCoy*
Multnomah County Chair

DATE: April 6, 1990

RE: Legal Opinion

The Charter Review Committee is currently considering a reorganization of division level correction programs as part of a Charter Amendment to be placed before the voters. I believe this is inappropriate.

Is reorganization of County divisions by the Charter Review Committee authorized by the County Charter? Who is authorized by Charter to reorganize County divisions and how?

I appreciate a quick written response so that I may share it with the Charter Review Committee as soon as possible.

MR:iar

Bill,
For your
information -
Nellie



MULTNOMAH COUNTY OREGON

October 23, 1989

Richard Roberts
Lindsay, Hart et al.
Suite 1800
222 S.W. Columbia
Portland, OR 97201

Dear Mr. Roberts:

Several important legal questions have surfaced in the past few weeks which I feel deserve your attention. These questions are as follows:

1. What are the legal deadlines for both the primary and general elections for the Committee's report to the Board of Commissioners?
2. When does the Committee's legal existence terminate? Does the Committee's existence terminate with the submission of its report, or may the Committee continue to operate beyond the legal deadline to the date of the general election?
3. May the County fund the Committee after the legal deadline in order to support recommendations made to the Board and placed on the ballot?
4. What is the distinction between an amendment and a revision to the charter and may the Committee submit a revised charter as a single ballot measure?
5. What is the effect on an official elected in the May primary if the office is subsequently abolished in November? What is the result if the official is elected in November and the office is also abolished in November?

As you may recall, you addressed several of these questions when the last Charter Review Committee met in 1983-84. I believe it is prudent to ask for your opinion at this time because of the possibility of changes in the law or case-law.

Our Committee will meet on November 8th at 7:00 p.m. Is it possible for you to present to the Committee your opinion at that time? It would also give you and the Committee members an opportunity to meet one another. Please call me if you have any questions.

Sincerely,

William C. Rapp, Administrator
Charter Review Committee

WCR:saw

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November 8, 1989

William C. Rapp, Administrator
Multnomah County Charter Review Committee
1120 S.W. 5th Ave., Suite 1500
Portland, OR 97204

Dear Bill:

In your letter dated October 23, 1989, you posed a series of questions on behalf of the Multnomah County Charter Review Committee (the "Committee") which we have paraphrased and to which we offer the following responses.

Question No. 1. What are the latest dates for filing the Committee's report with the Board of County Commissioners (the "Board") for the primary and general elections?

Answer: Section 12.60 of the Multnomah County Home Rule Charter (the "Charter") requires the report to be filed "at least ninety-five days prior to the primary to the primary or general election or both of 1990 . . ." We calculate the filing date to be February 9, 1990 for the primary election and August 3, 1990 for the general election.

We do suggest, however, that we confer with the Multnomah County Counsel to determine whether the filing dates are sufficient to meet other county requirements such as Board actions, preparation of voter pamphlet materials, etc.

Question No. 2. When does the Committee's existence terminate? If the Committee terminates upon submission of its report, may it continue to operate until the date of the general election?

Answer: The Charter does not specifically state that the Committee ever terminates although it may be inferred from

LINDSAY, HART, NEIL & WEIGLER

William C. Rapp, Administrator
November 8, 1989
Page 2

Sections 12.50 and 12.60 that the Committee has no function beyond submitting its findings, conclusions and recommendations to the Board. We see no obstacle, however, for the Board, in the absence of specific Charter language to the contrary, to continue the existence of the Committee, as an advisory body, for whatever period of time the Board determines. The Board would not, however, be required to call any further elections pursuant to Committee recommendations but would have the discretion to call elections as it so determined.

If the Board takes no action then we conclude that the Committee's existence terminates upon submission of its findings, conclusions and recommendations pursuant to Section 12.60 of the Charter and would have no authority to continue to operate as a Committee.

Question No. 3. May the Board fund the Committee after termination to "support recommendations" of the Committee report?

Answer: ORS 294.100(1) states that "It is unlawful for any public official to expend any money in excess of the amounts, or for any other or different purpose than provided by law."

Violation of this statute subjects the public official to personal civil liability for the monies so expended.

The most relevant case to your question is Porter v. Tiffany, 11 Or. App., 502 P.2d 1385 (1972) in which commissioners of the Eugene Water & Electric Board were sued for expenditures they had made for materials advocating a favorable vote on a referendum election. The court, after citing the above statute, found that the expenditures were not lawfully authorized by statute or charter. Therefore, the court found the commissioners to be personally liable for those expenditures.

There had been numerous other opinions and cases that, in essence, support the proposition that public funds may not be utilized to support advocacy of a particular ballot measure. Therefore, in the absence of express Charter authority, we believe that it would be inadvisable for the Board to fund Committee activities after submission of the Committee report in an effort to support Committee recommendations.

Obviously, our responses to the second and third questions should not be interpreted to prohibit individual

LINDSAY, HART, NEIL & WEIGLER

William C. Rapp, Administrator
November 8, 1989
Page 3

Committee members from expressing their positions regarding the Committee report and its recommendations as long as those member activities are not funded by the county.

Question No. 4. What is the distinction between Charter amendments and revisions and may the Committee submit a revised charter as a single ballot measure?

Answer: The distinction between an amendment and a revision is not always clear. In our opinion, however, an amendment is intended primarily to correct or rectify faults or errors in the Charter whereas a revision contemplates a complete redrafting of the entire Charter. The revision requires a submission of the Charter, as revised, in its entirety to a vote. This, obviously, could result, upon a negative vote on the revised Charter, of a defeat of all changes proposed by the Committee.

Sections 12.30, 12.60 and 12.70 of the Charter require the Board to submit "amendments" proposed by the Committee. Section 12.70 of the Charter requires the Board to submit "All amendments proposed by the Committee . . ." to a vote of the people. The Charter does not refer to nor does it require the Board to submit a "revised Charter," as proposed by a Committee, to a vote. This is not to say, however, that the Committee is precluded from suggesting a revised Charter. The Board would not, however, be required to submit the revised Charter to a vote and, arguably, such a suggestion could be perceived as being outside the scope of the Committee's responsibilities as contained in Sections 12.30, 12.60 and 12.70 of the Charter.

Question No. 5. What is the effect if an official is elected at the May election and the office is abolished in November, or elected in November and the office is abolished in November?

Answer: This issue was first addressed in Oregon when Oregon was still a territory. In State ex rel. Territory v. Pyle, 1 Or. 149 (1854), the court stated:

"Public offices are created for the convenience of the public, and not the officer. It is competent for the legislature to abolish such offices when created, to shorten or lengthen the term of office, or to increase or decrease the compensation."

William C. Rapp, Administrator
November 8, 1989
Page 4

Id. at 151.

The court also stated that in the absence of any constitutional inhibition, there is no limitation on the legislative discretion to restrict the term of office. Id. at 151-52. There is nothing in the Oregon Constitution which was adopted subsequent to Pyle that directly restricts the legislature or a home rule county from shortening the term of one of its elected officials. Indeed, in State ex rel. Everding v. Simon, 20 Or. 365, 372, 26 P. 170 (1891) the Oregon Supreme Court held that the legislature had the right to shorten and otherwise change the term of office of an elected city official.

The supreme court has not directly addressed the question of whether a legislative body can shorten the term of an elected official since the Simon decision. The Oregon Attorney General, however, has continued to follow the rule of Pyle. The Attorney General has addressed the issue of whether the legislature may shorten or lengthen the term of elected board members of a special district. The Attorney General stated:

"It is a general rule that any incumbent has no contractual right or property right to a particular term of office. Any 'right' to service is that of the public, not the office holder."

37 Or. Op. Att'y Gen. 936, 937 (1975).

McQuillin states:

"Terms of office may be changed by constitutional amendment, and unless restricted by the organic law of the state, terms of office may be lengthened or shortened by statute if the legislature has jurisdiction; or, if the powers vested in the municipal corporation, unless forbidden by the charter, such change may be made by appropriate ordinance. The term of a charter officer may be shortened or lengthened by charter amendment."

E. McQuillin, *The Law of Municipal Corporations* § 12.114, at 437 (3rd rev. ed. 1982) (footnotes omitted and emphasis added).

LINDSAY, HART, NEIL & WEIGLER

William C. Rapp, Administrator
November 8, 1989
Page 5

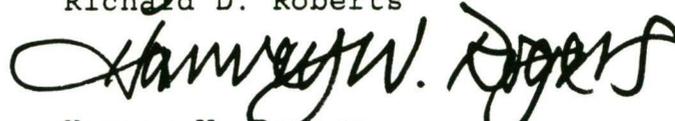
In view of the authorities cited, it is within the home rule initiative powers of the county's voters to shorten or eliminate the terms of elected county officials.

Please do not hesitate to call if you would like to discuss our comments further.

Very truly yours,

LINDSAY, HART, NEIL & WEIGLER


Richard D. Roberts


Harvey W. Rogers

RDR/san

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October 5, 1989

LINDSAY, HART, NEIL & WEIGLER

FIRM RESUME

Lindsay, Hart, Neil & Weigler is a regional law firm with a highly developed, diversified, and comprehensive practice. The firm has been located in Portland, Oregon, for over 50 years, and also maintains offices in Washington, D.C.; San Francisco, California; Boise, Idaho; and Seattle, Washington.

Today the firm has more than 90 lawyers offering specialized expertise in business and corporate law; security and bond financing; commercial litigation; admiralty and maritime law; labor, environmental, and telecommunications law; regional bank and bank holding company representation; health care; real estate and land use planning; international trade; and franchising. In addition, Lindsay, Hart has a comprehensive energy practice active in most western states. The firm's skills and expertise in various areas of specialization are summarized below.

Litigation. Lindsay, Hart has a broad-based trial and appellate practice. Approximately half of our lawyers devote most of their time to litigation. Our practice is heavily oriented to the representation of corporate, insurance, commercial, and financial clients, including banks and savings and loan institutions. We are experienced in all phases of securities, casualty, and corporate law litigation, director and officer claims, shareholder derivative suits, class action claims, broker-dealer issues, coverage, products, admiralty, antitrust, Uniform Commercial Code, RICO, lender liability claims, real estate, and litigation related to corporate mergers and acquisitions. Our firm has represented both plaintiffs and defendants in such cases. Recent cases include obtaining a \$9.3 million jury verdict for a corporate client as a result of a failed merger; representation of SIPC in pursuing a wide variety of claims arising out of the liquidation of a brokerage firm and the representation of the FDIC in relation to failed banks; a defense jury verdict for a physician whose co-defendant suffered judgment in excess of \$1 million. We

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 2

also represent officers and directors of financial institutions in litigation brought by the FSLIC.

In the commercial area, we are experienced in all types of litigation encountered by business entities, including dealer terminations, contract disputes, products, admiralty, environmental and regulatory compliance, antitrust, trademark protection, employment discrimination, and financial transactions.

We have extensive experience in all types of personal injury litigation, including the defense of claims for medical malpractice and product liability. For the last several years, we have been extensively involved as trial counsel on both a state and national level in the defense of IUD product liability claims. Our firm also has experience in professional malpractice claims involving attorneys, accountants, engineers, real estate appraisers, and real estate brokers.

Banks, Bank Holding Companies, Savings and Loan Associations, and Mortgage Banking Companies. Our clients include banks, bank holding companies, savings and loan associations, and mortgage banking companies. Special emphasis is placed upon the representation of commercial banks and bank holding companies. Our clients include regional bank holding companies, national banks, state chartered banks, and Fed member banks.

Our representation of these clients covers a wide range of subjects. We have been involved in various bank acquisitions and mergers over the last several years. One of the attorneys in our office has participated in a majority of the interstate bank and savings and loan acquisitions which have thus far been consummated in the State of Oregon. Two of these interstate bank acquisitions, which involved substantial financial assistance from the FDIC, represented "firsts of their kind." The same attorney drafted the enabling legislation in 1983 and 1985 which made these interstate acquisitions possible.

Corporate Practice. We represent a large number of corporations as general counsel and provide corporate services to national companies with local subsidiaries or transactions. Our work in this area entails the customary formation of corporations, documentation of corporate activities, including shareholder and directors' meetings, and general advice involving the interrelationships between a corporation, its directors and

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 3

shareholders. In addition, we regularly assist corporate clients in mergers, acquisitions, dissolutions, and redemptions.

General Business Practice. Our work in this area has involved the preparation of a wide variety of documents designed to formalize the various agreements entered into by our clients; financing documents, security agreements, and related financing statements under the Oregon Uniform Commercial Code; agreements for the purchase and sales of assets or stock constituting part or all of an ongoing business; and various general commercial documents and agreements, such as employment contracts, leases, shareholders' agreements, joint venture and partnership agreements, and documents involved in the sale or licensing of goods and technology.

The firm provides significant legal expertise in all areas pertaining to sales, marketing, and product distribution. We have assisted our clients in establishing their distribution systems. We have advised our clients in the negotiation, preparation, and performance of all forms of distribution and sale arrangements, including joint marketing agreements, original equipment manufacturer agreements, sales representative and agency agreements and distribution agreements, both domestically and internationally.

Securities. Our securities practice has grown rapidly over the last several years to keep pace with the emerging businesses in the Northwest. We counsel and serve clients involved in mergers and acquisitions, leveraged buy-outs, initial public offerings, venture capital financings, and private offerings. We counsel clients on all matters of state and federal securities law compliance. This representation includes the preparation of a wide variety of documents: registration statements, disclosure statements, private placement memoranda required as part of corporate stock and limited partnership offerings, as well as related submissions to state securities regulatory authorities and the SEC. We also serve as local counsel to a well-known securities firm active in most of the Western states.

Real Estate and Land Use Planning. Our real estate practice involves the representation of numerous developers, residential real estate brokers, commercial real estate brokers, title insurance companies, and a number of general contractors. Besides involving the tax, corporate and general business services mentioned above, this practice involves real estate problems related to the purchase, development, sale, status of title,

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 4

foreclosure, and financing of real property. We also have several land use practitioners who represent clients in local and state planning procedures and landowners in land use planning disputes.

Construction Law. Lindsay, Hart represents clients in all phases of construction law for both public and private projects. In its federal and state public contracts practice, it offers expertise in contract review and negotiation, bid protests (including bid mistakes, clarifications, and MBE/WBE issues) and claims (such as defective specifications, delay claims, and payment/performance bond claims). On private projects, we represent architects, engineers, construction lenders, mortgagees, owners, general contractors, subcontractors, and materialmen. Our work includes contract drafting and negotiation, construction lien preparation, foreclosure suits, and payment bond claims.

Admiralty and Maritime Industry. For over 50 years, we have represented a wide range of clients in all phases of the admiralty and maritime industry, including maritime personal injury and death, complex medical matters, cargo, hull and collision matters, offshore petroleum matters, salvage, maritime liens, mortgage law, and maritime finance.

Bankruptcy. We have a substantial bankruptcy practice, representing both creditors and debtors. In our creditors practice, we represent lenders, landlords, suppliers, and creditors' committees and provide transactional advice on bankruptcy matters and creditors' rights. With respect to our debtor practice, we advise clients experiencing financial difficulties and handle corporate bankruptcies, including several successful Chapter 11 reorganizations during the last few years.

Taxation. Our work involves general tax planning, resolution of specific tax problems, and structuring of transactions to minimize/maximize tax effects. We provide a full range of tax-related advice and service to our business clients. We are experienced in representing clients before the Internal Revenue Service and the Oregon Department of Revenue, usually by representing them in a state or federal income or estate tax audit, or applying for revenue rulings on specific tax issues. We also have substantial experience in the unitary tax area.

Estate Planning. We are experienced in preparing estate plans and trust agreements, as requested by our clients, reviewing plans prepared by others for conformity with tax and non-tax

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 5

considerations, drafting of documents necessary to implement estate plans, assisting in administration of such plans, and probating estates.

Labor and Employment Law. We represent various non-union clients, principally assisting them in maintaining that status by avoiding or responding to union organization drives. We regularly furnish advice on personnel matters, including employee personnel policies, employee discipline or termination, wage and hour matters, unemployment claims, and workers' compensation claims.

We also represent various employers with union collective bargaining agreements where we have had experience in the following areas: NLRB hearings of all types, including representation petitions, charges of unfair labor practices, and claims against unions for secondary activity; negotiating collective bargaining agreements; arbitration of employee or union grievances; injunctions against illegal union activity; and litigation against employers on fair representation claims.

We have defended various employers in formal and informal proceedings against claims of discrimination based on race, sex, religion, physical handicap, and unemployment compensation. Our civil rights experience includes cases under both federal and state laws, and has involved work for a full range of employers from small concerns to multi-national ones. Additionally, we have been involved with EEOC compliance, affirmative action plans, and dealing with anti-discrimination requirements for public contracts.

We have experience in designing and implementing qualified plans, nonqualified deferred compensation plans, welfare benefit plans, and executive compensation programs. We have also counselled on ERISA fiduciary liability matters.

Energy. We have an extensive energy practice, representing industrial energy users and sponsors of cogeneration, renewable resource, mining, and drilling projects. Our energy clientele includes almost all major Northwest industrial companies, whose products include aluminum and other light metals, forest products, pulp and paper, electronics, chemicals, aircraft, steel, and petroleum. Most of our practice deals with electricity, but we also have experience with natural gas, coal, and petroleum matters. We have expertise in utility rates, energy supply, regional power planning (including conservation and fish and wildlife matters), energy purchase and sale agreements, and the engineering and

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 6

financing of generating projects. We appear regularly before state regulatory and energy commissions throughout the western states; the Bonneville Power Administration; Northwest Power Planning Council; the Federal Energy Regulatory Commission; and state and federal legislative bodies.

In addition to the representation of industrial energy consumers, the firm provides counsel to numerous utilities. Our clients include municipal utilities, electric cooperatives, utility associations, transmission providers, irrigation districts, and private developers of small hydro, wind, geothermal, and cogeneration projects.

Bond Financing. Lindsay, Hart offers its Northwest municipal bond clients a combination of advantages unmatched by any other firm. Through our Portland and Boise offices, we offer the experience, depth, and expertise offered by five full-time, nationally recognized municipal bond attorneys, plus the availability of the in-depth tax, securities, and municipal bond legal resources of a nationally-recognized law firm.

The Portland office acts as bond counsel on a substantial majority of the bond issues in Oregon, and a significant number of issues in the state of Washington. In addition, the bond lawyers in the Portland office work closely with our Boise office on issues in the state of Idaho. Since 1981, the bond lawyers in our Portland office have closed more than 750 bond issues totalling more than \$2.0 billion in principal amount. These have included issues of all kinds ranging from small general obligation bonds for local districts to large state agency issues, including both blind pool and identified pool industrial development bond issues, with varying back-up security devices.

Antitrust and Trade Regulation. Lindsay, Hart has long been involved in handling significant antitrust litigation in the Pacific Northwest. The firm has represented clients in private treble damage actions, federal grand jury investigations, state antitrust suits, and other trade regulation and unfair competition disputes. While the firm's practice has been predominantly on behalf of defendants, we have represented corporate plaintiffs in major cases and were co-counsel with a San Francisco law firm in representing the Helix Milling Company in a Sherman Act claim where a \$15 million treble damage verdict was secured, then the largest antitrust verdict in Oregon's history.

LINDSAY, HART, NEIL & WEIGLER

Firm Resume

October 5, 1989

Page 7

We provide extensive antitrust counseling and advice to a wide variety of clients, including manufacturers, franchisors, trade associations, and health care organizations. Our work ranges from review of pricing and distribution policies and advice on contractual matters and joint ventures to intensive analysis of proposed mergers. We prepare Hart-Scott-Rodino pre-merger notification reports for submission to the Federal Trade Commission and the U.S. Department of Justice and advise clients on strategies for obtaining government approval of mergers.

Our lawyers have significant experience in litigation and counseling on anti-trust related matters, including distributor terminations, trade secrets, and trademark and unfair competition claims.

Governmental Affairs (Lobbying). We represent clients' legislative interests on both the state and local levels in Oregon, Washington, Idaho, and Alaska, and at the federal level through our Washington, D.C. office. On the national level, the firm is active on behalf of clients seeking or opposing proposed legislation in Congress. This work includes keeping clients informed of matters pending before congressional committees, analyzing political and economic issues and the probable effects on clients, advising on strategy to maximize favorable and minimize unfavorable forces and coalitions, assisting with testimony in committees, and direct lobbying. We have an effective working relationship with Oregon's two senators, its Congressional delegation, and members of their staff. We have appeared and testified before the legislative committees, both in the House and in the Senate. We are directly involved in drafting and successfully espousing national legislation.

Because our Washington, D.C., office also engaged in administrative lobbying, we have a working knowledge of the operations of federal agencies, and in many agencies we have developed comfortable working relations with the staffs. This is a result of not only long-time practice before many agencies, but also prior employment by the agencies.

Locally, we regularly appear before the Oregon legislature, various state agencies, city and county commissions, and other governmental bodies. One attorney in our office has experience dealing with the Oregon legislature in conjunction with drafting of the interstate banking legislation, which was enacted in 1983 and 1985. This attorney enjoys rapport with legislators and

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 8

lobbyists who deal with legislation affecting financial institutions.

International. Our clients in technology and non-technology industries compete in a global market and rely on us for global advice. This has included everything from lobbying ministries in Japan to drafting and negotiating joint venture agreements with China, to researching and advising on the establishment of overseas production capability and distribution networks. We represent Scandinavian financial institutions and Japanese multinationals, American exporters and importers of technology goods and wood products, apparel and agricultural products. We have Japanese, French, German, Norwegian, and Spanish in-house language capability, spoken and written.

Central to international business transactions is a body of U.S. law regulating them. These laws include the Export Administration Act and its attendant regulatory structure, the Export Trading Company Act, anti-boycott and anti-bribery legislation, customs legislation and regulation, anti-dumping and countervailing duty legislation, a wide variety of protectionist legislation, export incentive legislation and programs and the federal tax code and treaties. We are familiar with these laws, work frequently with the agencies that administer them, and have been active in lobbying to achieve their rationalization.

Health Care. We have been active in the fields of hospital bonding, tax-exempt financing, business transactions, taxation, malpractice, medical product liability defense, provider contracting, and peer review. The firm is experienced in working with clients to meet the wide variety of regulatory requirements which exist in the health care industry. We have represented providers in appeals of Medicare payment methodologies, and lawyers at the firm have represented health care providers in proceedings before the Oregon and Idaho Insurance Divisions, as well as peer review organizations before the U.S. Department of Health and Human Services. In addition to extensive involvement in regulatory matters, the firm is active in the area of health care legislation. We maintain a special expertise in antitrust as it relates to health care. We advise clients on the complex antitrust implications of joint ventures, provider associations, physician participation in alternative delivery systems, mergers, and health planning. For example, the firm is currently representing the interests of health care providers in litigation involving the

LINDSAY, HART, NEIL & WEIGLER

Firm Resume
October 5, 1989
Page 9

complex antitrust issue of the conflict between peer review and anticompetitive activity.

Telecommunications. Lindsay, Hart has for a number of years represented a trade association of the region's largest telecommunications service customers. This representation has allowed us to actively participate in cases before the Federal Communications Commission and the Public Utility Commissions of Oregon, Washington, Idaho, Nevada, and Utah. Most of our practice involves heavy users of utility services, resellers, and those establishing their own telecommunications systems. We also represent a nationally-known provider of pay telephone service. Our representation has included lobbying on telecommunications legislation before the legislatures of the above-named states, and has involved civil litigation before state and federal courts, including the United States Supreme Court. Involved in these proceedings were a wide range of telecommunications issues such as local measured service rates, intrastate depreciation calculations, access charges, cable conduit and public right-of-way fees, deregulation and detariffing standards, lifeline rates, and new "social contract" and other incentive regulation proposals.

Franchising. Our firm is recognized as one of the premier franchising law firms in the Pacific Northwest. We have participated in national and international legal symposia since the inception of the current state, federal, and international franchise laws. We know and have worked with the leading national practitioners in franchising law, as well as many of the state franchise administrators. We advise franchisor and franchisee clients on all matters regarding state, federal, and international franchise law, and related legal and business concerns. Among our franchise clients are large international franchisors, one of which is based in Portland, large franchisees of international fast food chains, and numerous successful local businesses that are breaking into the national and international market through franchising.

Lindsay, Hart, Neil & Weigler welcomes any inquiries or questions regarding our ability to respond to your legal needs.



MULTNOMAH COUNTY OREGON

MULTNOMAH COUNTY CHARTER REVIEW COMMITTEE

1120 S.W. Fifth Avenue
Suite 1500
Portland, Oregon 97204
(503) 248-3525

MEMBERS

Ann Porter, *Chair*
Mark Johnson, *Vice-Chair*
Florence Bancroft
Lana Butterfield
David J. Chambers
Liberty Lane
Monica Little
Bruce McCain
Paul Norr
Marcia Pry
Casey Short
Nicholas Teeny
LaVelle VandenBerg

STAFF

William C. Rapp
Administrator
Shirley Winter
Secretary

To: Committee Members

Fr: Bill Rapp, Administrator

Dt: November 3, 1989

Re: Legal Opinion

BR

Attached for your information is a copy of a letter I sent to the committee's legal counsel Dick Roberts asking him for his legal opinion on several issues which have surfaced during committee meetings.

Mr. Roberts has agreed to appear before the committee at our next meeting on November 8th in order to relay his answers to the questions in my letter. He will also provide a written opinion to the committee.

If you have any additional legal questions, Mr. Roberts' presence will provide a good opportunity to state those concerns.



MULTNOMAH COUNTY OREGON

October 23, 1989

Richard Roberts
Lindsay, Hart et al.
Suite 1800
222 S.W. Columbia
Portland, OR 97201

Dear Mr. Roberts:

Several important legal questions have surfaced in the past few weeks which I feel deserve your attention. These questions are as follows:

1. What are the legal deadlines for both the primary and general elections for the Committee's report to the Board of Commissioners?
2. When does the Committee's legal existence terminate? Does the Committee's existence terminate with the submission of its report, or may the Committee continue to operate beyond the legal deadline to the date of the general election?
3. May the County fund the Committee after the legal deadline in order to support recommendations made to the Board and placed on the ballot?
4. What is the distinction between an amendment and a revision to the charter and may the Committee submit a revised charter as a single ballot measure?
5. What is the effect on an official elected in the May primary if the office is subsequently abolished in November? What is the result if the official is elected in November and the office is also abolished in November?

Page 2, letter to Richard Roberts

As you may recall, you addressed several of these questions when the last Charter Review Committee met in 1983-84. I believe it is prudent to ask for your opinion at this time because of the possibility of changes in the law or case-law.

Our Committee will meet on November 8th at 7:00 p.m. Is it possible for you to present to the Committee your opinion at that time? It would also give you and the Committee members an opportunity to meet one another. Please call me if you have any questions.

Sincerely,

William C. Rapp, Administrator
Charter Review Committee

WCR:saw

May 11, 1990

M E M O R A N D U M

TO: Multnomah County Charter Review Committee
FROM: Lindsay, Hart, Neil & Weigler
RE: Format for Charter Amendments and Ballot Measures

Attached as Exhibits A, B and C are our first drafts of charter amendments which incorporate the Committee's recommendations regarding a lobbyist, two-term limitations and running in midterm. New language is underlined. Deleted language appears in brackets. Words which are not underlined are currently in the charter.

Attached as Exhibits 1, 2 and 3 are our first drafts of the ballot measures which would be presented to the voters to authorize the charter amendments shown in Exhibits A, B and C. Oregon law requires that a ballot measure consist of:

- (1) a caption, of no more than 10 words;
- (2) a question, of no more than 20 words; and
- (3) a concise and impartial statement of purpose, of no more than 85 words.

We request that you review the attached exhibits and indicate the changes you would like. We will incorporate those changes into our next drafts.

EXHIBIT A

6.50 SHERIFF--[PAID LOBBYIST] INTERGOVERNMENTAL COORDINATOR.
The people of Multnomah County shall elect:

- (1) A County Sheriff for the function of said office as prescribed by State Law and he or she shall have sole administration of all county jails and correctional institutions located in Multnomah County.
- (2) [Multnomah County shall not employ or hire a paid lobbyist.]
- (3) The County may employ an intergovernmental coordinator who shall represent the County's interest before the state legislature and other governmental bodies.
- (4) Effective January 1, 1985, no incumbent or future elected officer of the County shall be eligible to serve more than two full consecutive four-year terms in any one elective county office within any twelve-year period. If an officer of the County is elected or appointed to an elective county office for a term of less than four years, the time so served shall not be counted against the limitation on terms within any twelve-year period.
- (5) No elected official of Multnomah County may run for another office in mid-term. Filing for another office in mid-term shall be the same as a resignation, effective as of date of filing. "Midterm" does not include the final year of an elected official's term. Filing for another office in the last year of an elective term shall not constitute a resignation.

EXHIBIT 1

BALLOT MEASURE

TITLE:

Multnomah County Charter Review Commission's
Recommendation about County Lobbyist.

QUESTION:

Shall the County Charter be amended to repeal the
prohibition against County Lobbyist and allow employment of an
intergovernmental coordinator?

STATEMENT OF PURPOSE:

If this measure is approved, the County Charter will be
amended to repeal the prohibition on employing or hiring a paid
lobbyist and, to authorize the County to employ an
intergovernmental coordinator to represent the County's interests
before the state legislature and other governmental bodies.

EXHIBIT B

6.50 SHERIFF--PAID LOBBYIST. The people of Multnomah County shall elect:

- (1) A County Sheriff for the function of said office as prescribed by State Law and he or she shall have sole administration of all county jails and correctional institutions located in Multnomah County.
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EXHIBIT 2

BALLOT MEASURE

TITLE:

Multnomah County Charter Review Commission's
Recommendation about Limitations on Terms.

QUESTION:

Shall the County Charter limitation on serving two
consecutive four-year terms in any one elective County office be
repealed?

STATEMENT OF PURPOSE:

If this measure is approved, the County Charter will be
amended to repeal the existing prohibition of elected officers
from serving more than two consecutive four-year terms in any one
elective County office.

EXHIBIT C

6.50 SHERIFF--PAID LOBBYIST. The people of Multnomah County shall elect:

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EXHIBIT 3

BALLOT MEASURE

TITLE:

Multnomah County Charter Review Commission's
Recommendation about Resignation of Officials.

QUESTION:

Shall the County Charter be amended to redefine
"mid-term"?

STATEMENT OF PURPOSE:

If this measure is approved, the County Charter will be
amended to allow an elected official to file for another office
in the last 18 months of the current term without causing a
resignation of the current office.

May 11, 1990

M E M O R A N D U M

TO: Multnomah County Charter Review Committee
FROM: Lindsay, Hart, Neil & Weigler
RE: Format for Charter Amendments and Ballot Measures

Attached as Exhibits A, B and C are our first drafts of charter amendments which incorporate the Committee's recommendations regarding a lobbyist, two-term limitations and running in midterm. New language is underlined. Deleted language appears in brackets. Words which are not underlined are currently in the charter.

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before the state legislature and other governmental bodies.

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EXHIBIT 2

BALLOT MEASURE

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Multnomah County Charter Review Commission's
Recommendation about Limitations on Terms.

QUESTION:

Shall the County Charter limitation on serving two
consecutive four-year terms in any one elective County office be
repealed?

STATEMENT OF PURPOSE:

If this measure is approved, the County Charter will be
amended to repeal the existing prohibition of elected officers
from serving more than two consecutive four-year terms in any one
elective County office.

EXHIBIT C

6.50 SHERIFF--PAID LOBBYIST. The people of Multnomah County shall elect:

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Shall the County Charter be amended to redefine
"mid-term"?

STATEMENT OF PURPOSE:

If this measure is approved, the County Charter will be
amended to allow an elected official to file for another office
in the last 18 months of the current term without causing a
resignation of the current office.



MULTNOMAH COUNTY OREGON

CONTRACT APPROVAL FORM
(See instructions on reverse side)

TYPE I

- Professional Services under \$10,000
- Revenue
- Grant Funding
- Intergovernmental Agreement

Amendment to above, Number _____
(Original Contract Amount _____)

TYPE II

- Professional Services over \$10,000 (RFP, Exemption)
- PCRB Contract
- Maintenance Agreement
- Licensing Agreement

Amendment to above, Number _____
(Original Contract Amount _____)

Contact Person Bill Rupp, County Auditor Phone 3525 Date 2/14/90

Department Land Departmental Division Charter Rev. Committee Bldg/Room 106/1500

Description of Contract Professional services contract for legal services at \$150 per hour plus costs + expenses not to exceed \$3,000.

RFP/BID # _____ Date of RFP/BID _____ Date of Exemption _____

Reviewed For MBE FBE Participation Contractor is MBE FBE

Contractor Name Lindsay Hart et al.
Mailing Address 5140 SE 150th St, Bellevue WA 98006
Phone 226-1191
Employer ID# or SS# 93-039-4745

FUND	AGENCY	ORGANIZATION	ACTIVITY	OBJ	SUB OBJ	REV SOURCE	SUB REV	REPT CATEG

Effective Date 11/15/90
Termination Date 9/15/90
Total Amount of Agreement \$ 3,000 + costs

Payment Terms
 Lump Sum \$ _____
 Monthly \$ _____
 Other \$ 75 bill &
 Requirements contract-requisition required
Purchase Order No. _____

Required Signatures:

Department Head [Signature] Date 2/15/90

Purchasing Director _____ Date _____
(Type II Contracts Only)

County Counsel [Signature] Date 2/14/90

Budget Office _____ Date _____

County Executive/Sheriff _____ Date _____

FOR ACCOUNTING/PURCHASING USE ONLY										ENCUMBRANCE "APRON" ONLY	
VENDOR name		YEAR		AUTHORIZATION NOTICE						ENCUMBRANCE "APRON" ONLY	
ACCT NO.	NUMBER	FUND	AGENCY	ORGANIZATION	ACTIVITY	OBJECT	SUB OBJ	REPT CATEG	DESCRIPTION	AMOUNT	INC/DEC IND
	<u>500140</u>										

INSTRUCTIONS FOR COMPLETING CONTRACT APPROVAL FORM

1. **TYPE I, TYPE II** — Check off appropriate type of contract in one of the two boxes on top of form. Note: Type II contracts need to be routed through Purchasing Director, Type I does not. If Amendment, enter contract number of original agreement and original contract amount.
2. **CONTACT PERSON, PHONE** — Enter name and phone number of person initiating contract from responsible County department.
3. **DATE** — Enter date contract and Contract Approval Form submitted for approval and execution.
4. **DEPARTMENT, DIVISION, BLDG/ROOM** — List appropriate County department and division responsible and interoffice mail code.
5. **DESCRIPTION OF CONTRACT** — Summary of product purchased or services to be performed. Note if an amendment or extension.
6. **RFP/BID #** — Enter number if contract is result of RFP/Bid selection process.
7. **DATE OF RFP/BID** — Enter date of RFP/BID public opening.
8. **DATE OF EXEMPTION** — Enter date exemption from competitive bidding granted by BCC.
9. **REVIEWED FOR MINORITY/FEMALE BUSINESS** — Check appropriate box if County sought business from MBE or FBE firm(s).
10. **CONTRACTOR IS MBE OR FBE** — Check appropriate box if contractor is certified as an MBE or FBE.
11. **CONTRACTOR NAME, MAILING ADDRESS, PHONE** — Enter current information.
12. **EMPLOYER ID# OR SS#** — Enter employer ID# or social security number if Contractor is an individual.
13. **EFFECTIVE DATE** — Date contract states to begin services.
14. **TERMINATION DATE** — Date contract states services terminated.
15. **TOTAL AMOUNT OF AGREEMENT** — Enter amount of agreement being submitted. If Amendment, enter amount of increase/decrease only.
16. **PAYMENT TERMS** — Designate payment terms by checking appropriate box and entering dollar amount.
17. **REQUIREMENTS CONTRACT — REQUISITION REQUIRED** — Check this box to note that a Purchase Order will be issued to trigger payment.
18. **PURCHASE ORDER NO.** — Enter number of Purchase Order to be issued. If number is not known, enter "P.O. will be issued."
19. **ACCOUNT CODE STRUCTURE** — Enter Account Code structure for the type of agreement, i.e., expense or revenue.
20. **REQUIRED SIGNATURES** — To be completed as approved. Purchasing Director needs to sign for Type II contracts only.
21. **AUTHORIZATION NOTICE** — For Accounting/Purchasing Use Only